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SUBJECT: DIALOGUE ON ECONOMIC COOPERATION: SESSIONS ON INVESTMENT, TRADE, AND PRIVATE SECTOR DEVELOPMENT

¶1. (SBU) SUMMARY: The afternoon sessions of the October 19 Dialogue on Economic Cooperation (DEC) focused on trade, investment, industry, and private sector development. Throughout these sessions, USG and Government of Iraq (GOI) interlocutors acknowledged that Iraq's investment climate was "improving," and cited the recently passed amendment to the National Investment Law as a positive signal to potential investors. The GOI representatives also mentioned progress in resolving outstanding business cases and on World Trade Organization (WTO) accession. Nevertheless, both sides agreed that unresolved issues continued to harm investment and trade, including lack of passage of key bilateral agreements, the continued use of Arab League Boycott language, and overbearing government involvement in key sectors such as aviation and telecommunications. These sessions were co-chaired by Acting Under Secretary of Commerce (U/S) for International Trade Michelle O'Neill and Iraqi Minister of Oil (MinOil) Dr. Hussain al-Shahristani. The morning sessions of the DEC, which focused on public financial management, financial services, and energy, will be reported separately.

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Investment and Trade
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¶2. (SBU) U/S O'Neill opened the afternoon session by highlighting the participants' common purpose of furthering bilateral economic cooperation and encouraging U.S. investment in Iraq. She also provided an overview of the issues under discussion, touching upon investment commissions, outstanding problem cases, key bilateral agreements, the National Investment Law, and World Trade Organization accession. MinOil Shahristani acknowledged the GOI's commitment to improving the investment climate, and highlighted the October 13 passage of the first amendment to the National Investment Law (No. 13) as a positive signal to potential investors.

¶3. (SBU) Responding to U/S O'Neill's request for an update on the status of the National Investment Commission (NIC) and Provincial Investment Commissions (PICs), Dr. Sami al-Araji, NIC Chairman, explained that the recently-passed amendment to the National Investment Law also places heavy emphasis on the relationship between the NIC and the PICs. He elaborated that the PICs were not under the control of the NIC, which was meant to mitigate the potential for political influence. Dr. Sami said that, under the new amendment, the PICs would be given more authority to encourage and work with foreign investors, within the framework of the national investment plan. Dr. Sami recognized the potential for and encouraged PICs to partner with those states in the United States that shared commonalities in agriculture, oil, and gas, for example.

¶4. (SBU) Dr. Sami added that the new amendment allowed foreigners to own land for housing projects and placed other land designated for investment projects under the authority of the NIC instead of different ministries. Dr. Sami

stressed that the NIC was cooperating with the PICs to appropriate land in accordance with national and provincial investment plans. The amendment also secured privileges for public-private partnerships, especially those involving state-owned enterprises, and reduced the review period for project applications from 45 to 15 days. Dr. Sami announced an upcoming private investment real estate development that will create 500,000 residential units throughout Iraq.

15. (SBU) U/S O'Neill and Embassy Baghdad Minister-Counselor for Economic Coordination John Desrocher raised specific outstanding problem cases and business disputes: GE power turbines; OMMA Healthcare's proposal to build a hospital in Baghdad; Iraqi Airways' air-cargo monopoly; and a plan to create a new, state-owned mobile telecommunications company. Desrocher called for a return to a more open air-cargo market, and encouraged that the government not be an operator in the telecommunications sector but remain only an independent regulator. Dr. Sami reiterated that the Iraqis were working through these and other investment challenges by establishing a legal committee to examine the issues and an investment court to help resolve disputes. GOI is exploring the New York Convention on Arbitral Awards, but are also looking into other mechanisms (i.e. London and Paris conventions) to see which one is most suitable for Iraq. On GE, he suggested that the recent payment, made possible by issuing treasury bills through the Central Bank of Iraq, was

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evidence of the GOI's commitment to meeting its financial obligations and stressed that the GOI was concentrating on future payments. Regarding other outstanding issues, such as OMMA Healthcare's aborted hospital construction bid, air-cargo disruption, and the challenges posed by a state-owned telecommunications carrier, Dr. Sami indicated that the GOI was aware of these issues. He also noted that there might have to be a compromise because local enterprises do not want to be shut out of the market by international companies and that further discussion was possible during the BIC. On the air-cargo issue, Shahristani seemed genuinely surprised by the news of the FedEx pullout and stressed that problems like the air-cargo situation, if they could not be resolved by the appropriate ministry, should be taken up by the Council of Ministers.

16. (SBU) U/S O'Neill also requested that the GOI eliminate Arab League Boycott (ALB) language from tenders, mostly a problem with Health Ministry tenders. Acting Minister of Trade (MinTrade) Safaa al-Deen al-Safi noted Iraq's obligations under its multilateral agreements with countries that adhere to the ALB. Ambassador Haslach cautioned against the potential loss of tax benefits and disincentive to investors if ALB language is retained, and noted that many of Iraq's neighbors have found ways around the ALB obligations. In response, MinTrade al-Safi said that the GOI would consider examples set by other countries in dealing with the matter in view of their international obligations.

17. (SBU) U.S. Export-Import (Ex-Im) Bank Senior Vice President John McAdams assured the GOI representatives that Ex-Im Bank was very open to working with Iraq, and would review its risk rating for Iraq following the International Monetary Fund's (IMF) upcoming country report on Iraq. He indicated, however, that to undertake significant projects, Ex-Im would need to put the risk on a third party. He noted that investors needed insurance and guarantees and that the GOI had to provide risk mitigation and a reasonable assurance of repayment, stressing that proceeds from oil sales could pay off infrastructure debt. MinOil Shahristani stated that "Iraq is a country that can pay off its debt," adding that an oil deal had been approved only days before and that two more would be initiated in a few days. However, he also countered that many U.S. regulators hinder investment in Iraq and that it is not solely the issues in Iraq that prevent investment.

TIFA AND WTO DISCUSSION

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¶8. (SBU) Moving to trade issues, Deputy Assistant United States Trade Representative for WTO and Multilateral Affairs Bruce Hirsh led the discussion, urging the GOI to ratify the bilateral Trade and Investment Framework Agreement (TIFA), which has been pending approval since 2005. He explained that ratification would send an important signal that the bilateral economic relationship had matured by expanding trade ties between our two nations. MinOil Shahristani declared that the GOI fully supported the TIFA, but he cautioned that delays in Iraq's parliament are usually politically motivated. Nevertheless, Shahristani said the GOI was hopeful that the new parliament would ratify the U.S.-Iraq TIFA after the January 2010 elections, with ratification of other bilateral agreements to follow.

¶9. (SBU) MinTrade al-Safi stated that the GOI was maintaining a steady course toward accession. He assured the U.S. representatives that the GOI was taking steps to set up a Working Party meeting in early 2010. He noted that laws focusing on intellectual property rights, sanitary and phytosanitary measures, and technical barriers to trade had been drafted and were under internal review, and that draft customs legislation had been sent to the parliament. DAUSTR Hirsh urged al-Safi to submit draft legislation to the WTO to ensure consistency with WTO rules and to avoid having to make future amendments to enacted legislation. He also pressed the Minister of Trade to submit the initial goods and services market access offers to the WTO, which was required before the next Working Party meeting could be scheduled. Dr. Sami Khairallah, Assistant Director General and WTO Coordinator for the Ministry of Trade, explained that the GOI had finalized its applied tariff schedule and had also established the tariff bindings intended for submission to the WTO. He noted that the bindings proposed were not significantly higher than the applied rates. With respect to trade in services, the GOI had reviewed and drafted a services offer covering about 89 of 152 subsectors, Khairallah added. The relevant Ministries gave the draft services offer to the National WTO Committee, which reviewed it and referred it back to the Ministries for changes.

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GSP
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¶10. (SBU) During a discussion of the pending U.S. Generalized System of Preferences (GSP) labor petition requesting removal of Iraq's GSP duty-free benefits, Gregory Schoepfle, Director of the Office of Trade and Labor at the Bureau of International Labor Affairs, Department of Labor (DOL), stressed the importance of labor law reform and raised the possible withdrawal of Iraq's duty-free GSP benefits on the basis of inadequate protection of workers' rights. MinTrade al-Safi indicated that a new labor law had been drafted, although further progress had been limited. Al-Safi noted repeatedly that the draft law would improve the situation for workers in the "private sector." He did not offer any comment on when the draft law would be presented to parliament or whether provisions addressing the public sector had been removed from the draft bill. Referencing Decree 8750, by which all trade union bank accounts had been frozen, the Minister of Trade noted that the decree had been made in response to political activities by the unions, and that unions could apply to the government for release of the frozen funds after they "prove that they are on the right track." Schoepfle offered DOL technical assistance in preparation of the draft labor law and encouraged speedy reform.

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Industry and Private Sector Development

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¶11. (SBU) Opening the second afternoon session, USAID Special Assistant Administrator for the Middle East George Laudato applauded the extraordinary growth in small and medium enterprises (SME), calling it "a success story in the making." Laudato called for the removal of restrictions in lending, more transparency, and greater availability of financing for SMEs throughout Iraq. Dr. Sami agreed and said that one of the GOI's priorities was to activate 38,000-plus registered SMEs in Iraq, half of which were "under construction." Dr. Sami noted that, though Iraq was very "under-banked," the GOI could borrow against existing retirement funds and use the money for projects in private sector development. In addition, credit unions could also work well to finance SMEs. Dr. Sami advocated low-interest (one to two percent) loans with long repayment periods for SMEs, but Central Bank of Iraq Governor Dr. Sinan al-Shabibi indicated that interest-rate policy was driven by inflation and price stability concerns. He also noted that subsidies were not the best option to unlocking credit, and that a regulatory environment for this sector needed to be created. (Comment: We have some concern with this idea, as it might undermine the ability of private banks to fill this need. End Comment.)

¶12. (SBU) In response to Iraqi requests for OPIC financing in Iraq, OPIC Chief of Staff John Moran urged the Iraqis to pass the Investment Incentive Agreement, which, like the TIFA, had been pending since 2005. Reiterating the possibilities for OPIC activities in Iraq, Moran explained that OPIC could only invest in for-profit institutions, and that, for OPIC to invest in CHF International (a micro-finance NGO), CHF needed to be licensed as a non-banking financial and for-profit institution. Dr. Sami thanked OPIC for the USD 50 million in financing for the five-star Summit Hotel project in Baghdad, whose construction has already begun and expected to last 24 months with planned opening scheduled for June 2011.

¶13. (SBU) The agricultural portion of the discussion was abbreviated, as the Minister of Agriculture fell ill early in the day. Nevertheless, John Brewer, Deputy Assistant Administrator for the Foreign Agricultural Service and USAID's George Laudato were able to note some of the legal and regulatory measures the GOI needed to take, including streamlining the Public Distribution System and defining the government's role in the agricultural sector more clearly.

¶14. (SBU) U.S. Trade and Development Agency (USTDA) Regional Director Carl Kress gave a brief overview of USTDA's prior activities in Iraq and potential for new projects. USTDA has conducted orientation visits and training programs in several sectors, including oil and gas, rail, and information and communications technology. Kress said that USTDA was exploring additional project proposals and would be inviting Iraqi delegates to participate in its May 2010 electricity-sector conference to be held in Cairo.

¶15. (SBU) Desrocher closed the gathering by encouraging both

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sides to continue the day's constructive discussions in Baghdad by energizing the Joint Coordinating Committee working groups under the SFA in the coming months. MinOil Shahristani echoed Desrocher's remarks, expressing his appreciation for a meaningful exchange focused on building a strong economic foundation. Shahristani agreed that the DEC was an important basis for mutual cooperation and dialogue.
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